

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

‘**Sec. 1. 22 MRSA §1549** is enacted to read:

**§ 1549. Smoking in vehicles when minor under 16 years of age is present**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42.

B. "Smoking" means inhaling, exhaling, burning or carrying a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

**2. Prohibition.** Smoking is prohibited in a motor vehicle by the operator or a passenger when a person who has not attained 16 years of age is present in that motor vehicle, regardless of whether the motor vehicle's windows are open.

**3. Prohibition on inspection or search.** A motor vehicle, the contents of the motor vehicle or the operator or a passenger in the motor vehicle may not be inspected or searched solely because of a violation of this section.

**4. Not a moving violation.** A violation of this section is a not a moving violation as defined in Title 29-A, section 101, subsection 44.

**5. Penalty; warning.** Notwithstanding section 1545, penalties for violations of this section are as set out in this subsection.

A. From September 1, 2008 to August 31, 2009, a law enforcement officer shall give a written warning to an operator or passenger of a motor vehicle who is in violation of this section.

B. Beginning September 1, 2009, a person who violates this section commits a civil violation for which a fine of \$50 must be assessed, except that a law enforcement officer may give a written warning to the operator or a passenger of a motor vehicle who is in violation of this section.

**Sec. 2. Effective date.** This Act takes effect September 1, 2008.’

## SUMMARY

This amendment is the majority report of the committee. This amendment lowers the age of the minors who are protected from secondhand smoke in a motor vehicle from under 18 years of age to under 16 years of age. The amendment states that the violation is not a moving violation. The amendment

prohibits searches based solely on a violation of the provision, limits the penalty for violating the provision in the first 12 months of its taking effect to a warning and retains a violation after that time as a civil violation, for which a fine of \$50 may be assessed or a warning given in the discretion of the law enforcement officer. This amendment provides an effective date of September 1, 2008.

**FISCAL NOTE REQUIRED**

**(See attached)**